

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KELLY L. SMITH,

Plaintiff,

vs.

CATHLEEN H. ALLEN, the law office of
LEININGER, SMITH, JOHNSON,
BAACK, PLACZEK & ALLEN, and the
law office of SMITH, JOHNSON,
BAACK, PLACZEK, ALLEN, CONNICK
& HANSEN, all in their personal
capacity and in their official capacity
as jointly engaged State actors and
Special Prosecutor; CENTRAL PLATTE
NATURAL RESOURCES DISTRICT;
KARIN L. NOAKES, in her individual,
personal capacity; FRANKIE J.
MOORE, in her individual, personal
capacity; FRANCIE C. RIEDMANN, in
her individual, personal capacity;
EVERETT O. INBODY, in his
individual, personal capacity;

Defendants.

Case No. 4:19-cv-3024

DECLARATION OF NATHAN CLARK

COMES NOW Nathan D. Clark and states as follows:

1. I am over the age of 18, competent in all respects to testify, and have personal knowledge of the facts set forth herein.
2. I am counsel for the Defendant Central Platte Natural Resources District (CPNRD).
3. I performed legal services for CPNRD along with attorney Mark A. Christensen in the above-captioned dispute.
4. My billable rate on this case was \$175.00 per hour and Mr. Christensen's was \$225.00 per hour.

5. Attached as Exhibits A through C are true and correct copies of itemized billing statements and attorney diary reports documenting the services performed by myself and Mr. Christensen in this matter, totaling \$10,180 in attorney's fees.

6. Exhibits A through C are records created at or near the time of the work performed from information transmitted by myself and Mr. Christensen, are kept in the course of a regularly conducted activity of recording attorney work by the Cline Williams law firm, and making of such records is a regular practice of that activity.

7. The amount set forth in paragraph 5 sets forth the fees incurred in responding to Plaintiff's Complaint and Amended Complaint and in making its motion for sanctions.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DATED May 20, 2020


NATHAN D. CLARK

CLINE WILLIAMS
WRIGHT JOHNSON & OLDFATHER, L.L.P.

ATTORNEYS AT LAW

ESTABLISHED 1857

233 South 13th Street
1900 US Bank Building
Lincoln, NE 68508

Phone 402.474.6900/Fax 402.474.5393

Tax ID number 47-0382823

EXHIBIT

A

Glatfelter Claims Management, Inc.
Attn: James Oberg

May 20, 2019
Invoice # 293607

For Services and Costs

CLIENT: 05664 - Glatfelter Claims Management, Inc.

Matter	Fees	All Costs	Total
009 - Smith v. Central Platte NRD, et al.	3,610.00	0.00	3,610.00
	Total Current Work		<u>\$3,610.00</u>

Amount enclosed: _____

Net payable within 10 days of receipt.
Please make check payable to Cline Williams.

PLEASE RETURN FIRST PAGE OF STATEMENT WITH PAYMENT

TEMPORARY RELOCATION OF LINCOLN OFFICE

Our Lincoln offices will be substantially renovated beginning January 14, 2019. To facilitate the construction, we will temporarily relocate to the 2nd, 3rd and 4th floors of the U.S. Bank Building at 100 North 56th Street, Lincoln, NE 68504, located at the corner of 56th & O Streets. Our mailing address, telephone numbers, fax number and email addresses remain unchanged during this temporary relocation. We expect to return to our renovated downtown Lincoln offices in the fall of 2019.

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 Tax ID number 47-0382823

Glatfelter Claims Management, Inc.
 Attn: James Oberg

May 20, 2019
Invoice # 293607

Re: 009 Smith v. Central Platte NRD, et al.

Claim No.: NEPF19040760

Date		Services	Rate	Hours	Amount
04/22/19	MAC	Prepare email to Jim Oberg; examine reply	225.00	0.10	22.50
04/22/19	MAC	Review Complaint and correspondence from Jim Oberg	225.00	0.50	112.50
04/22/19	MAC	Prepare email to Jim Oberg	225.00	0.10	22.50
04/23/19	NDC	Review complaint	175.00	0.70	122.50
04/23/19	NDC	Consider strategy and motions to file	175.00	0.20	35.00
04/23/19	NDC	Review complaint	175.00	0.60	105.00
04/23/19	NDC	Review codefendants' motion to dismiss and supporting brief	175.00	0.50	87.50
04/23/19	MAC	Telephone conference with Lyndon Vogt	225.00	0.10	22.50
04/23/19	MAC	Research Central Platte NRD and Lyndon Vogt	225.00	0.10	22.50
04/23/19	MAC	Review Fed. Rules Civ. P. regarding waiver of service and timing	225.00	0.10	22.50
04/23/19	MAC	Examine Pacer and Motion to Dismiss and Briefs of Co-Defendants	225.00	0.40	90.00
04/23/19	MAC	Prepare email to NDC; examine response and reply	225.00	0.10	22.50

Client Ref: 05664 - 009

May 20, 2019

Invoice # 293607**Page 2**

Date		Services	Rate	Hours	Amount
04/23/19	MAC	Examine email from Don Blankenau; reply	225.00	0.10	22.50
04/26/19	MAC	Examine memo and disc with claim file from Jim Oberg	225.00	0.20	45.00
04/27/19	NDC	Review previous cases between parties	175.00	0.80	140.00
04/27/19	NDC	Draft brief in support of motion to dismiss	175.00	1.70	297.50
04/28/19	NDC	Draft brief in support of motion to dismiss	175.00	1.50	262.50
04/29/19	NDC	Draft brief in support of motion to dismiss	175.00	6.00	1,050.00
04/29/19	MAC	Conference with NDC regarding Motion to Dismiss and Rule 11 issues	225.00	0.20	45.00
04/30/19	MAC	Examine email from NDC; reply	225.00	0.10	22.50
04/30/19	MAC	Prepare email to Jim Oberg regarding Rule 11 sanctions	225.00	0.10	22.50
04/30/19	NDC	Draft brief in support of motion to dismiss	175.00	5.80	1,015.00

Recapitulation

		Rate	Hours	Amount
MAC	Mark A. Christensen	225.00	2.20	495.00
NDC	Nathan D. Clark	175.00	17.80	3,115.00
For Current Services Rendered			20.00	\$3,610.00

Total This Matter**\$3,610.00**

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233 South 13th Street
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Phone 402.474.6900/Fax 402.474.5393
Tax ID number 47-0382823

Glatfelter Claims Management, Inc.
Attn: James Oberg

June 21, 2019
Invoice # 294569

For Services and Costs

CLIENT: 05664 - Glatfelter Claims Management, Inc.

Matter	Fees	All Costs	Total
009 - Smith v. Central Platte NRD, et al.	5,262.50	0.00	5,262.50
	Total Current Work		<u>\$5,262.50</u>

Amount enclosed: _____

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Glatfelter Claims Management, Inc.
 Attn: James Oberg

June 21, 2019
Invoice # 294569

Re: 009 Smith v. Central Platte NRD, et al.

Claim No.: NEPF19040760

Date		Services	Rate	Hours	Amount
05/01/19	NDC	Draft brief in support of motion to dismiss	175.00	7.30	1,277.50
05/01/19	NDC	Draft affidavit	175.00	1.00	175.00
05/01/19	MAC	Examine email from NDC regarding Motion and Brief	225.00	0.10	22.50
05/02/19	NDC	Draft brief in support of motion to dismiss	175.00	1.30	227.50
05/02/19	NDC	Draft index of evidence	175.00	0.20	35.00
05/02/19	NDC	Review documents for filing	175.00	0.10	17.50
05/02/19	MAC	Review and revise Motion and Brief	225.00	0.50	112.50
05/02/19	MAC	Conference with NDC regarding Motion and Brief	225.00	0.10	22.50
05/02/19	MAC	Correspondence to Jim Oberg regarding Motion, Brief and Rule 11 issue	225.00	0.20	45.00
05/02/19	MAC	Examine email from Jim Oberg regarding Rule 11	225.00	0.10	22.50
05/02/19	MAC	Examine email from NDC; reply	225.00	0.10	22.50
05/06/19	NDC	Draft motion for Rule 11 sanctions	175.00	1.20	210.00
05/06/19	NDC	Draft letter to plaintiff to accompany draft Rule 11 motion	175.00	0.60	105.00

Client Ref: 05664 - 009

June 21, 2019

Invoice # 294569**Page 2**

Date		Services	Rate	Hours	Amount
05/06/19	MAC	Examine email from NDC; reply	225.00	0.10	22.50
05/06/19	MAC	Examine e-notices from Court regarding filing Motion, Brief and Index	225.00	0.10	22.50
05/06/19	MAC	Examine email and draft Rule 11 Motion from NDC; reply	225.00	0.10	22.50
05/06/19	MAC	Review and modify draft correspondence to Plaintiff from NDC; reply to NDC	225.00	0.10	22.50
05/06/19	MAC	Examine email from NDC regarding revised Motion and service; reply	225.00	0.10	22.50
05/07/19	MAC	Correspondence to Jim Oberg regarding Rule 11 Motion and correspondence to Smith	225.00	0.20	45.00
05/08/19	NDC	Review Plaintiff's amended complaint	175.00	0.30	52.50
05/08/19	MAC	Examine notification of service on Plaintiff	225.00	0.10	22.50
05/08/19	MAC	Examine e-notice from Court regarding Plaintiff's filing of Certificate of Service and Amended Complaint	225.00	0.10	22.50
05/08/19	MAC	Examine Text Order from Judge Zwart striking Amended Complaint	225.00	0.10	22.50
05/09/19	NDC	Consider effects of amended complaint on brief in support of motion to dismiss	175.00	0.30	52.50
05/09/19	MAC	Examine Order denying Motions to Dismiss as moot	225.00	0.10	22.50
05/09/19	MAC	Prepare email to NDC regarding re-filing Motion; examine reply	225.00	0.10	22.50
05/09/19	MAC	Correspondence to Jim Oberg regarding Amended Complaint and Order	225.00	0.20	45.00
05/13/19	NDC	Review correspondence and offer from K. Smith - no charge	0.00	0.10	0.00

Client Ref: 05664 - 009

June 21, 2019

Invoice # 294569**Page 3**

Date		Services	Rate	Hours	Amount
05/13/19	NDC	Draft brief in support of of motion to dismiss to address new allegations	175.00	0.80	140.00
05/13/19	MAC	Examine correspondence from Kelly Smith	225.00	0.10	22.50
05/13/19	MAC	Correspondence to Lyndon Vogt regarding Smith correspondence	225.00	0.20	45.00
05/14/19	NDC	Draft brief and affidavit in support of motion to dismiss to address new allegations in Amended Complaint	175.00	3.80	665.00
05/14/19	MAC	Examine email from Lyndon Vogt regarding no payment to Smith	225.00	0.10	22.50
05/14/19	MAC	Prepare email to Jim Oberg; examine reply	225.00	0.10	22.50
05/14/19	MAC	Examine email from NDC regarding 2nd Motion to Dismiss and Brief	225.00	0.10	22.50
05/16/19	NDC	Prepare index of evidence for filing	175.00	0.20	35.00
05/16/19	MAC	Examine email from NDC, Motion to Dismiss and revised Brief	225.00	0.20	45.00
05/16/19	MAC	Examine e-notices of filing Motion and Brief	225.00	0.10	22.50
05/16/19	MAC	Correspondence to Jim Oberg regarding Motion and Brief	225.00	0.20	45.00
05/21/19	MAC	Examine Motion to Dismiss, Index of Evidence and Brief filed on behalf of Allen	225.00	0.20	45.00
05/22/19	MAC	Examine e-notice from Court and filed Motion to Dismiss of Judges	225.00	0.10	22.50
05/23/19	MAC	Examine e-notice from Court and Brief in Support of Judges' Motion to Dismiss	225.00	0.10	22.50
05/28/19	NDC	Draft brief in support of motion for sanctions	175.00	6.50	1,137.50

Client Ref: 05664 - 009

June 21, 2019

Invoice # 294569**Page 4**

Date	Services	Rate	Hours	Amount
05/28/19	MAC Prepare email to NDC regarding Rule 11 Motion	225.00	0.10	22.50
05/29/19	NDC Draft brief, motions, and declaration in support of of motion for sanctions	175.00	1.20	210.00

Recapitulation

		Rate	Hours	Amount
MAC	Mark A. Christensen	225.00	4.10	922.50
NDC	Nathan D. Clark	0.00	0.10	0.00
NDC	Nathan D. Clark	175.00	24.80	4,340.00
For Current Services Rendered			29.00	\$5,262.50

Total This Matter**\$5,262.50**

CLINE WILLIAMS
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ESTABLISHED 1857
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1900 US Bank Building
Lincoln, NE 68508
Phone 402.474.6900/Fax 402.474.5393
Tax ID number 47-0382823

Glatfelter Claims Management, Inc.
Attn: James Oberg

July 25, 2019
Invoice # 295609

For Services and Costs

CLIENT: 05664 - Glatfelter Claims Management, Inc.

Matter	Fees	All Costs	Total
009 - Smith v. Central Platte NRD, et al.	375.00	15.80	390.80
	Total Current Work		<u>\$390.80</u>

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Glatfelter Claims Management, Inc.
 Attn: James Oberg

July 25, 2019
Invoice # 295609

Re: 009 Smith v. Central Platte NRD, et al.

Claim No.: NEPF19040760

Date		Services	Rate	Hours	Amount
06/03/19	MAC	Review and revise Brief and NDC Declaration	225.00	0.30	67.50
06/03/19	MAC	Correspondence to Jim Oberg regarding Motion, Brief and Declaration	225.00	0.20	45.00
06/03/19	MAC	Examine e-notice of filing from District Court	225.00	0.10	22.50
06/04/19	MAC	Examine Text Order from Court	225.00	0.10	22.50
06/07/19	NDC	Review plaintiff's brief in opposition to the motion to dismiss	175.00	0.10	17.50
06/07/19	MAC	Examine e-notices from Court and Plaintiff's Notice of Service and Brief Opposing Motion to Dismiss	225.00	0.20	45.00
06/07/19	MAC	Examine email from NDC; reply	225.00	0.10	22.50
06/10/19	NDC	Review Smith's motion for extension of deadline to reply	175.00	0.10	17.50
06/10/19	NDC	Review Court's text order on briefing schedule	175.00	0.10	17.50
06/10/19	MAC	Examine e-notice from Court and Court Order granting Plaintiff's request for extension of time	225.00	0.10	22.50

Client Ref: 05664 - 009

July 25, 2019

Invoice # 295609**Page 2**

Date	Services	Rate	Hours	Amount
06/10/19	MAC Examine e-notice from Court and docket entry regarding text oral motion of Plaintiff	225.00	0.10	22.50
06/27/19	NDC Review plaintiff's briefs in opposition to motions to dismiss and our motion for sanctions	175.00	0.30	52.50

Recapitulation

		Rate	Hours	Amount
MAC	Mark A. Christensen	225.00	1.20	270.00
NDC	Nathan D. Clark	175.00	0.60	105.00
For Current Services Rendered			1.80	\$375.00

Expenses and Advances

Date	Expenses and Advances	Amount
06/28/19	Postage Expense	15.80

Total Expenses and Advances	\$15.80
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Total This Matter	\$390.80
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Tax ID number 47-0382823

Glatfelter Claims Management, Inc.
Attn: James Oberg

August 26, 2019
Invoice # 296647

For Services and Costs

CLIENT: 05664 - Glatfelter Claims Management, Inc.

Matter	Fees	All Costs	Total
009 - Smith v. Central Platte NRD, et al.	245.00	0.00	245.00
	Total Current Work		\$245.00

Amount enclosed: _____

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 Tax ID number 47-0382823

Glatfelter Claims Management, Inc.
 Attn: James Oberg

August 26, 2019
Invoice # 296647

Re: 009 Smith v. Central Platte NRD, et al.

Claim No.: NEPF19040760

Date		Services	Rate	Hours	Amount
07/01/19	NDC	Review plaintiff's opposition to Rule 11 motion	175.00	0.20	35.00
07/01/19	MAC	Examine e-notice from Court and filed Notice of Service by Smith	225.00	0.10	22.50
07/01/19	MAC	Examine Plaintiff's Briefs in Opposition to Motion to Dismiss and Motion for Sanctions	225.00	0.20	45.00
07/03/19	NDC	Review reply briefs of co-defendants	175.00	0.30	52.50
07/03/19	MAC	Examine Reply Brief submitted on behalf of Cathleen Allen	225.00	0.10	22.50
07/08/19	MAC	Examine Reply Brief submitted on behalf of Noakes, Moore, Riedmann and Inbody	225.00	0.10	22.50
07/10/19	MAC	Examine Motion for Default Judgment, Certificate and Brief filed by Plaintiff	225.00	0.10	22.50
07/15/19	MAC	Examine Order denying Plaintiff's Summary Judgment Motion	225.00	0.10	22.50

Recapitulation

		Rate	Hours	Amount
MAC	Mark A. Christensen	225.00	0.70	157.50
NDC	Nathan D. Clark	175.00	0.50	87.50
For Current Services Rendered			1.20	\$245.00

Client Ref: 05664 - 009
Invoice # 296647

August 26, 2019
Page 2

Total This Matter

\$245.00

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Tax ID number 47-0382823

Glatfelter Claims Management, Inc.
Attn: James Oberg

October 22, 2019
Invoice # 298685

For Services and Costs

CLIENT: 05664 - Glatfelter Claims Management, Inc.

Matter	Fees	All Costs	Total
009 - Smith v. Central Platte NRD, et al.	62.50	49.60	112.10
	Total Current Work		\$112.10

Amount enclosed: _____

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Glatfelter Claims Management, Inc.
 Attn: James Oberg

October 22, 2019
Invoice # 298685

Re: 009 Smith v. Central Platte NRD, et al.

Claim No.: NEPF19040760

Date		Services	Rate	Hours	Amount
09/16/19	NDC	Check status of pending motions	175.00	0.10	17.50
09/16/19	MAC	Examine email from Jim Oberg; reply	225.00	0.10	22.50
09/16/19	MAC	Prepare email to NDC; examine reply	225.00	0.10	22.50

Recapitulation

		Rate	Hours	Amount
MAC	Mark A. Christensen	225.00	0.20	45.00
NDC	Nathan D. Clark	175.00	0.10	17.50
For Current Services Rendered				0.30 \$62.50

Expenses and Advances

Date	Expenses and Advances	Amount
09/17/19	Pacer Service Pacer Service - US Bank, N.A.	49.60

Total Expenses and Advances	\$49.60
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Total This Matter	\$112.10
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Tax ID number 47-0382823

Glatfelter Claims Management, Inc.
Attn: James Oberg

February 24, 2020
Invoice # 303003

For Services and Costs

CLIENT: 05664 - Glatfelter Claims Management, Inc.

Matter	Fees	All Costs	Total
009 - Smith v. Central Platte NRD, et al.	80.00	2.20	82.20
	Total Current Work		\$82.20

Amount enclosed: _____

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Glatfelter Claims Management, Inc.
 Attn: James Oberg

February 24, 2020
Invoice # 303003

Re: 009 Smith v. Central Platte NRD, et al.

Claim No.: NEPF19040760

Date		Services	Rate	Hours	Amount
01/07/20	NDC	Review docket for case activity	175.00	0.10	17.50
01/21/20	MAC	Prepare email to NDC regarding status	225.00	0.10	22.50
01/22/20	MAC	Examine email from NDC; prepare email to James Oberg	225.00	0.10	22.50
01/22/20	NDC	Check docket	175.00	0.10	17.50

Recapitulation

		Rate	Hours	Amount
MAC	Mark A. Christensen	225.00	0.20	45.00
NDC	Nathan D. Clark	175.00	0.20	35.00
For Current Services Rendered				0.40 \$80.00

Expenses and Advances

Date	Expenses and Advances	Amount
12/13/19	Other Cash Advanced Pacer - US Bank, N.A.	2.20
Total Expenses and Advances		\$2.20
Total This Matter		\$82.20

**EXHIBIT
B**

Attorney Diary Report

For Mark A. Christensen
From 02/24/2020 Thru 05/31/2020

Date	Client Code and Name	Matter Code	Name	Event	Stat/Bill	Hours	\$ Value	Description
5/4/2020								
05664	Glatfelter Claims Management, Inc.	009	Smith v. Central Platte NRD, et al.	4950065	P B	0.10	22.50	Examine email from James Oberg; prepare email to NDC
05664	Glatfelter Claims Management, Inc.	009	Smith v. Central Platte NRD, et al.	4950067	P B	0.20	45.00	Examine email from NDC; reply - 2
05664	Glatfelter Claims Management, Inc.	009	Smith v. Central Platte NRD, et al.	4950089	P B	0.10	22.50	Prepare email to Jim Oberg regarding status and recommendation; examine reply
Total this date						0.40	90.00	
5/14/2020								
05664	Glatfelter Claims Management, Inc.	009	Smith v. Central Platte NRD, et al.	4972046	P B	0.30	67.50	Examine Memorandum and Order and Judgment from District Court
05664	Glatfelter Claims Management, Inc.	009	Smith v. Central Platte NRD, et al.	4972047	P B	0.10	22.50	Examine email from NDC; reply
Total this date						0.40	90.00	
5/15/2020								
05664	Glatfelter Claims Management, Inc.	009	Smith v. Central Platte NRD, et al.	4972059	P B	0.20	45.00	Correspondence to Jim Oberg regarding Memorandum and Order and Judgment
05664	Glatfelter Claims Management, Inc.	009	Smith v. Central Platte NRD, et al.	4972060	P B	0.10	22.50	Examine email from Jim Oberg; reply
Total this date						0.30	67.50	
Attorney total						1.10	247.50	
Billable Hours						1.10	247.50	
Non billable hours						0.00	0.00	

EXHIBIT
C

Attorney Diary Report

For Nathan D. Clark

From 02/24/2020 Thru 05/31/2020

Date		Client Code and Name		Event	Stat/Bill	Hours	\$ Value	Description
Matter Code	Name							
5/4/2020								
05664	Glatfelter Claims Management, Inc.							
009	Smith v. Central Platte NRD, et al.	4948186	P B	0.70	122.50	Look up docket activity re: motion to dismiss and motion for sanctions; talk to former Judge Gerrard clerk about why there is such a delay; recommend course of action to MAC		
Total this date						0.70	122.50	
5/14/2020								
05664	Glatfelter Claims Management, Inc.							
009	Smith v. Central Platte NRD, et al.	4966926	P B	0.30	52.50	Review Court's order granting motion to dismiss and motion for sanctions		
05664	Glatfelter Claims Management, Inc.							
009	Smith v. Central Platte NRD, et al.	4966928	P B	0.10	17.50	Review billing invoices for proving attorney's fees		
Total this date						0.40	70.00	
5/18/2020								
05664	Glatfelter Claims Management, Inc.							
009	Smith v. Central Platte NRD, et al.	4971224	P B	0.60	105.00	Draft affidavit in support of motion for attorney's fees		
Total this date						0.60	105.00	
Attorney total						1.70	297.50	
Billable Hours						1.70	297.50	
Non billable hours						0.00	0.00	
Total this report						1.70	297.50	
Billable Hours						1.70	297.50	
Non billable hours						0.00	0.00	